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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,379	12/21/2001	Hans Ries	213260US0	6128

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
PATTERSON, MARC A

ART UNIT	PAPER NUMBER
1772	6

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Please find below and/or attached an Office communication concerning this application or proceeding.

AS-6

Office Action Summary	Application No. 10/024,379	Applicant(s) RIES ET AL.	
	Examiner Marc A Patterson	Art Unit 1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 December 2001* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-36* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-36* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *2,4* .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1 – 31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term 'molding' is indefinite as its meaning is unclear. The phrase also appears to be directed to a method limitation, which is given little patentable weight as discussed below. For purposes of examination, the phrase will be assumed to mean any composition. The term 'PA' is indefinite as the abbreviation has not been defined. For purposes of examination, the term will be assumed to mean 'polyamide.' The claim also refers to a polyamine, which is clearly a polymer, as a 'monomer.' For purposes of examination it will be assumed that the composition is a graft copolymer. The phrases 'obtained from caprolactam and / or from a combination of hexamethylene diamine / adipic acid and 'obtained from aminoundecanoic acid' are indefinite as the methods by which they are obtained are not claimed. The phrases also appear to be directed to method limitations, which are given little patentable weight as discussed below.

3. Claim 23 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 23 recites the limitation "innermost" in line 2. There is insufficient antecedent basis for this limitation in the claim.

4. Claim 27 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 27 recites the limitation "outermost" in line 2. There is insufficient antecedent basis for this limitation in the claim.

5. Claim 32 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term 'molding' is indefinite as its meaning is unclear. The phrase also appears to be directed to a method limitation, which is given little patentable weight as discussed below. For purposes of examination, the phrase will be assumed to mean any composition. The term 'PA' is indefinite as the abbreviation has not been defined. For purposes of examination, the term will be assumed to mean 'polyamide.' The claim also refers to a polyamine, which is clearly a polymer, as a 'monomer.' For purposes of examination it will be assumed that the composition is a graft copolymer. The phrases 'obtained from caprolactam and / or from a combination of hexamethylene diamine / adipic acid and 'obtained from aminoundecanoic acid' are indefinite as the methods by which they are obtained are not claimed. The phrases also appear to be directed to method limitations, which are given little patentable weight as discussed below. The claim is also indefinite as it is directed to a composition comprising 0% of a polyamide ('a') which is subjected to solid – phase post condensation.

6. Claim 34 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as

the invention. The term 'molding' is indefinite as its meaning is unclear. The phrase also appears to be directed to a method limitation, which is given little patentable weight as discussed below. For purposes of examination, the phrase will be assumed to mean any composition. The term 'PA' is indefinite as the abbreviation has not been defined. For purposes of examination, the term will be assumed to mean 'polyamide.' The claim also refers to a polyamine, which is clearly a polymer, as a 'monomer.' For purposes of examination it will be assumed that the composition is a graft copolymer. The phrases 'obtained from caprolactam and / or from a combination of hexamethylene diamine / adipic acid and 'obtained from aminoundecanoic acid' are indefinite as the methods by which they are obtained are not claimed. The phrases also appear to be directed to method limitations, which are given little patentable weight as discussed below.

7. Claim 35 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term 'molding' is indefinite as its meaning is unclear. The phrase also appears to be directed to a method limitation, which is given little patentable weight as discussed below. For purposes of examination, the phrase will be assumed to mean any composition. The term 'PA' is indefinite as the abbreviation has not been defined. For purposes of examination, the term will be assumed to mean 'polyamide.' The claim also refers to a polyamine, which is clearly a polymer, as a 'monomer.' For purposes of examination it will be assumed that the composition is a graft copolymer. The phrases 'obtained from caprolactam and / or from a combination of hexamethylene diamine / adipic acid and 'obtained from aminoundecanoic acid' are indefinite as the methods by which they are obtained are not claimed. The phrases also

appear to be directed to method limitations, which are given little patentable weight as discussed below. The claim is also indefinite as it is directed to a composition comprising 0% of a polyamide ('a') which is linked by a reactive compound.

Double Patenting

8. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

9. Claims 1 – 5, 9 – 12, 20 and 23 – 36 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 8, 15, 18, 21, 23 and 28 of U.S. Patent No. 6,355,358 B1. Although the conflicting claims are not identical, they are not patentably distinct from each other because the patented invention comprises the claimed layer, and is a composite having two or more layers. With regard to the claimed aspects of the layer comprising a monomer unit which is 'obtained from caprolactam and / or a combination of hexamethylenediamine / adipic acid' (Claim 1), and being produced by 'injection molding' (Claim 31), comprising a molding composition 'obtained by subjecting a blend to solid – phase post condensation' (Claim 32), and comprising components which are 'linked by adding a

reactive compound' (Claim 35), the method of making the composite (product – by – process), including reaction chemistry, is given little patentable weight.

10. Claims 6 – 8, 13 – 18 and 21 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 2 and 11 of U.S. Patent No. 6,355,358 B1 in view of Mugge et al (U.S. Patent No. 5,404,915). Although the conflicting claims are not identical, they are not patentably distinct from each other because Mugge et al teach that the use of a copolymer comprising polyamide 6 and polyamide 12 as a layer of a composite (column 2, lines 43 – 67) for the purpose of obtaining a composite having good dimensional stability. It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for a copolymer comprising polyamide 6 and polyamide 12 as the polyamide in order to obtain a composite having good dimensional stability as taught by Mugge et al.

11. Claim 19 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 22 of U.S. Patent No. 6,355,358 B1 in view of Hata et al European Patent No. 0742096). Although the conflicting claims are not identical, they are not patentably distinct from each other because Hata et al teach the use of a regrind layer in a fuel tank for the purpose of making the fuel tank recyclable (page 4, lines 55 – 57). It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for a regrind layer in the fuel tank in order to make the fuel tank recyclable as taught by Hata et al.

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Patterson, whose telephone number is (703) 305-3537. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by phone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached at (703) 308-4251. FAX communications should be sent to (703) 872-9310. FAXs received after 4 P.M. will not be processed until the following business day.

Marc A. Patterson, PhD.
Marc Patterson
Art Unit 1772

HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

4/30/03